

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	No. 3:16-CR-16
v.	)	
	)	
OMAR A. MORALES,	)	(REEVES / SHIRLEY)
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This case came before the Court on September 15, 2016, for a motion hearing on the Defendant's Motion for Substitution of Counsel [Doc. 34], filed on August 29, 2016, and referred [Doc. 35] to the undersigned on September 14, 2016. See 28 U.S.C. § 636(b). Assistant United States Attorney Caryn L. Hebets represented the Government. Assistant Federal Defender Bobby E. Hutson, Jr., appeared with the Defendant. The motion asks that the Court substitute new appointed counsel for the Defendant because the Defendant has lost confidence in Mr. Hutson's legal advice and, despite his efforts, counsel has not been able to resolve the issues with the attorney-client relationship.

At the hearing, the Court conducted a sealed, *ex parte* hearing in order to learn the nature and extent of the problems with the attorney-client relationship. Without going into the confidential nature of that discussion, the Court concludes that the trust necessary to the attorney-client relationship is irretrievably broken. The Court also finds that this lack of trust has caused the communication between the Defendant and Mr. Hutson has broken down, which in turn will likely affect counsel's ability to provide an adequate defense. Based upon the

statements of defense counsel and Defendant, the Court concludes that the trust and communication necessary for an adequate defense no longer exists in the attorney-client relationship and that the situation is unlikely to improve. Failure to substitute counsel at this juncture will only prolong, rather than resolve, the problem. Accordingly, the Court finds that good cause exists to substitute new counsel for Mr. Hutson.

Based upon good cause shown, the Motion for Substitution of Counsel [**Doc. 34**] is **GRANTED**, and Mr. Hutson is relieved as counsel for the Defendant. See Wilson v. Mintzes, 761 F.2d 275, 280 (6th Cir. 1985) (holding that a defendant seeking to substitute counsel must show good cause). The Court recognizes the need for the Defendant to be continuously represented by conflict-free counsel. Attorney Mike Whalen was present at the hearing and agreed to accept representation of the Defendant. The Court **SUBSTITUTES** and **APPOINTS** Mr. Whalen under the Criminal Justice Act (CJA), 18 U.S.C. section 3006A, as counsel of record for the Defendant. The Court directed Mr. Hutson to provide the discovery and other important information from the Defendant's file to Mr. Whalen as expeditiously as possible.

The trial of this case remains set for **November 1, 2016**. The Court extended the plea deadline for Defendant Morales from September 16, 2016, to **October 11, 2016**. The Court will not reopen the motion deadline at this time, but instructed counsel that if he determined any motions to be necessary, he must move for leave to file the motion out of time.

Accordingly, it is **ORDERED**:

- (1) The Defendant's Motion for Substitution of Counsel [**Doc. 34**] is **GRANTED**, and Assistant Federal Defender Bobby Hutson and the Federal Defenders Services of Eastern Tennessee are relieved of representation of the Defendant;

- (2) Attorney Hutson is **DIRECTED** to provide the discovery and information from the Defendant's file to new counsel as soon as possible;
- (3) Attorney Mike Whalen is **SUBSTITUTED** and **APPOINTED** as the Defendant's counsel of record under the CJA; and
- (4) Defendant Morales' deadline for concluding plea negotiations is extended to **October 11, 2016**.

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge